

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WALTER A. CLARK, ¹	§	
	§	No. 131, 2010
Respondent Below,	§	
Appellant,	§	Court Below—Family Court of
	§	the State of Delaware in and for
v.	§	New Castle County
	§	
JENNIFER C. CLARK,	§	
	§	File No. CN07-01072
Petitioner Below,	§	Pet. No. 09-38932
Appellee.	§	

Submitted: November 19, 2010

Decided: February 9, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 9th day of February 2011, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) The appellant, Walter A. Clark ("Husband"), has appealed the Family Court's February 1, 2010 decision on a show cause petition filed by the appellee, Jennifer C. Clark ("Wife"). Wife's show cause petition sought to have Husband held in contempt of the Family Court's September 9, 2008

¹ By Order dated March 8, 2010, the Court *sua sponte* assigned pseudonyms to the parties. Del. Supr. Ct. R. 7(d).

order that divided the parties' marital estate and order dated April 28, 2009 that conditionally dismissed Wife's prior show cause petition.

(2) In his opening brief on appeal, Husband contends that the Family Court's February 1, 2010 decision is based on "procedural errors." Wife, however, has moved to affirm the decision pursuant to Supreme Court Rule 25(a).

(3) The scope of this Court's review of a Family Court judgment includes a review of both law and facts.² If the Family Court correctly applied the law, we review under an abuse of discretion standard.³ The Family Court's factual findings will not be disturbed on appeal if they are supported by the record and are the product of an orderly and logical deductive process.⁴ When the determination of facts turns on the credibility of the witnesses who testified under oath before the trial judge, this Court will not substitute its opinion for that of the trial judge.⁵

(4) Upon consideration of Husband's opening brief and the Family Court record, including the transcript of the hearing held on February 1, 2010, we conclude that the February 1, 2010 decision should be affirmed. There is nothing in the record supporting Husband's contentions that the

² *Wife (J.F.V.) v. Husband (O.W.V. Jr.)*, 402 A.2d 1202, 1204 (Del. 1979).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

Family Court erred when granting Wife's show cause petition and requiring that Husband take corrective action. In essence, Husband asks this Court to substitute its own opinion for the factual findings and deductions made by the Family Court. Such a substitution would be an improper exercise of this Court's appellate jurisdiction.⁶

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

⁶ *Id.*